**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.670 OF 2006

Cyril Maurice Goveas & Ors. ..Appellants.

V/s.

John Anthony Baptista & Anr. ..Respondents.

Mr.Vasant R. Bhandare for appellants.

Mr.P.K.Dhakephalkar i/b. Y.M.Chaudhari for Respondent No.1.

**CORAM: A.M.KHANWILKAR,J**

**DATE : JANUARY 24, 2007.**

**P.C. :**

1. Heard counsel for the parties.

2. I find no reason to depart from the well-reasoned order passed by the trial Court rejecting the Notice of Motion preferred by the plaintiff. Amongst others, there is no infirmity in paragraph-10 and 14 of the impugned Judgment. It is not necessary to elaborate all aspects of the matter; as broadyly I am in agreement with the view taken by the trial Court. In addition, it is rightly contended by the counsel for the defendant that the question of granting any injunction, as prayed, at this belated stage after the building is constructed

upto 3rd floor does not arise.

3. It is made clear that all questions are left open, to be decided in the suit on its own merits in accordance with the law. Having regard to the nature of the controversy, the trial Court may consider the request of expediting hearing of the suit, if made.

4. At this stage, Mr.Bhandare submits that it be clarified that the third party rights created in repect of the disputed structure should be made subject to the outcome of the suit. As provisions of lis pendence are applicable in the area in question, it will be open to the plaintiffs to take necessary steps in that behalf.

5. In the circumstances, the appeal from order is dismissed.